

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MELODY STOOPS,)	
)	
Plaintiff,)	
)	
v.)	
)	
CREDIT ONE BANK, N.A.)	Docket No.: 3:15-cv-00149-KRG
)	
Defendants.)	
)	
)	
)	

**DEFENDANT, CREDIT ONE BANK, N.A.’S, ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFF’S COMPLAINT**

Defendant, Credit One Bank, N.A. (COB), through counsel and under the Federal Rules of Civil Procedure, submits this Answer and Affirmative Defenses to the Complaint filed by plaintiff, Melody Stoops (plaintiff), and states:

I. INTRODUCTION

1. COB admits plaintiff purports to bring this action for alleged violations of the Telephone Consumer Protection Act (TCPA), 47 USC § 227, *et seq.*, but denies any violations, liability or wrongdoing under the law. Except as specifically admitted, COB denies all allegations in ¶ 1.

II. JURISDICTION AND VENUE

2. Upon information and belief, COB admits this Court has jurisdiction. Except as specifically admitted, COB denies the allegations in ¶ 2.

3. Upon information and belief, COB admits venue is proper. Except as specifically admitted, COB denies the allegations in ¶ 3.

III. PARTIES

4. COB denies the allegations in ¶ 4 for lack of information sufficient to form a belief therein.

5. COB admits it is a bank and has an office at 585 Pilot Road, Las Vegas, NV 89119. Except as specifically admitted, COB denies the allegations in ¶ 5 for lack of information sufficient to form a belief therein.

IV. STATEMENT OF CLAIM

6. COB denies the allegations in ¶ 6 as calling for a legal conclusion.

7. COB denies the allegations in ¶ 7 as calling for a legal conclusion.

8. COB denies the allegations in ¶ 8 for lack of knowledge or information sufficient to form a belief therein.

9. COB denies the allegations in ¶ 9 for lack of knowledge or information sufficient to form a belief therein.

COUNT ONE

10. COB reasserts the foregoing as if fully stated herein.

11. COB denies the allegations in ¶ 11.

12. COB denies the allegations in ¶ 12.

13. COB denies the allegations in ¶ 13 as calling for a legal conclusion.

14. COB denies the allegations in ¶ 14.

15. COB denies the allegations in ¶ 15 for lack of knowledge or information sufficient to form a belief therein.

16. COB denies the allegations in ¶ 16.

17. COB denies the allegations in ¶ 17.

18. COB denies the allegations in ¶ 18.

AFFIRMATIVE DEFENSES

1. One or more of the counts/grounds in plaintiff's Complaint fails to state a claim against COB upon which relief can be granted.

2. One or more of the alleged telephone calls were not made to a wireless, i.e., cellular, telephone.

3. The equipment used by COB to make telephone calls is not covered by or subject to the TCPA.

4. Based upon the policies and procedures of COB, to the extent COB was calling plaintiff on her cellular telephone, as alleged, plaintiff had provided consent to receive those calls.

5. To the extent plaintiff was receiving calls on her cellular telephone, plaintiff has failed to mitigate her damages.

6. Upon information and belief, some or all of plaintiff's claims are subject to arbitration.

WHEREFORE, Defendant Credit One Bank, N.A. requests the Court dismiss this action with prejudice and grant it all further and necessary relief the Court deems appropriate.

Dated: June 2, 2015

Respectfully submitted

/s/ Ross S. Enders

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Attorneys for Defendant

Credit One Bank, N.A.

CERTIFICATE OF SERVICE

I certify that on this 2nd day of June 2015, a copy of **Credit One Bank N.A.'s Answer and Affirmative Defenses** was filed electronically in the ECF system. Notice of this filing will be sent to the parties of record by operation of the Court's electronic filing system, including plaintiff's counsel as described below. Parties may access this filing through the Court's system.

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